

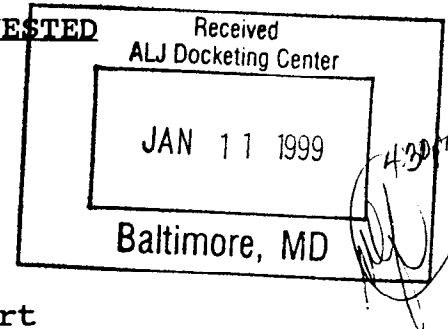


E627-01  
UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

JAN - 7 1999

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Fawzi Mustapha Assi  
7706 Middlepoint Street  
Dearborn, Michigan 48126



Dear Mr. Assi:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), hereby charges that Fawzi Mustapha Assi (hereinafter "Assi") has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act"), as set forth below.<sup>1</sup>

Facts constituting violations:

Charges 1-2

On or about July 13, 1998, Assi attempted to export from the United States to Lebanon a thermal imaging camera without the export license that he knew or had reason to know was required by Sections 742.4 and 742.6 of the Regulations. BXA alleges that, by attempting a violation of the Act, the Regulations, or any order, license, or authorization issued thereunder, Assi violated Section 764.2(c) of the Regulations. BXA also alleges that, by selling, transferring, or forwarding commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act, the Regulations, or any order, license, or authorization issued thereunder occurred, was about to occur, or was intended to occur with respect to the transaction, Assi violated Section 764.2(e) of the Regulations.

Charge 3

In connection with the attempted export described above, Assi failed to file the Shipper's Export Declaration (SED), an export

<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



control document as defined in Part 772 of the Regulations, required by section 758.1(e) of the Regulations with the U.S. Customs Service at the time of the attempted export. BXA alleges that, by failing to file the SED, Assi concealed material facts from a United States agency for the purpose of or in connection with effecting an export from the United States, and, in so doing, violated Section 764.2(g) of the Regulations.

BXA alleges that Assi committed one violation of Section 764.2(c), one violation of Section 764.2(e), and one violation of Section 764.2(g), for a total of three violations of the Regulations.

Accordingly, Assi is hereby notified that an administrative proceeding is instituted against him pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

- a. The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1));<sup>2</sup>
- b. Denial of export privileges (see Section 764.3(a)(2)); and/or
- c. Exclusion from practice (see Section 764.3(a)(3)).

Copies of relevant Parts of the Regulations are enclosed.

If Assi fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Assi is further notified that he is entitled to an agency hearing on the record as provided by Section 766.6 of the Regulations if a written demand for one is filed with his answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this charging letter. Accordingly, Assi's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5 of the Regulations. In addition, a copy of Assi's answer should be served on BXA at the address set

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<sup>2</sup> The maximum civil penalty for any violation committed on or after October 23, 1996 is \$11,000 (15 C.F.R. § 6.4(a)(3) (1998)).

forth in Section 766.5, adding "ATTENTION: Thomas C. Barbour, Esq." below the address. Mr. Barbour may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

In the Matter of:	)	Docket Number
	)	
FAWZI MUSTAPHA ASSI	)	99-BXA-01
7706 Middlepoint Street	)	
Dearborn, Michigan 48126,	)	
	)	
Respondent	)	

RECOMMENDED DECISION AND ORDER

On January 7, 1999, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), issued a charging letter initiating an administrative proceeding against Fawzi Mustapha Assi (hereinafter "Assi"). The charging letter alleged that Assi committed three violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act").<sup>1</sup>

Specifically, the charging letter alleged that, on or about July 13, 1998, Assi attempted to export from the United States to Lebanon a thermal imaging camera without the export license that

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<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

he knew or had reason to know was required by Sections 742.4 and 742.6 of the Regulations. BXA alleged that, by attempting to violate the Act, the Regulations, or any order, license, or authorization issued thereunder, Assi violated Section 764.2(c) of the Regulations. BXA also alleged that, by selling, transferring, or forwarding commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act, the Regulations, or any order, license, or authorization issued thereunder occurred, was about to occur, or was intended to occur with respect to the transaction, Assi violated Section 764.2(e) of the Regulations.

In addition, BXA also alleged that, in connection with the attempted export described above, Assi failed to file with the U.S. Customs Service, at the time of the attempted export, the Shipper's Export Declaration (SED), an export control document as defined in Part 772 of the Regulations, required by Section 758.1(e) of the Regulations. BXA alleged that, by failing to file the SED, Assi concealed material facts from a United States agency for the purpose of or in connection with effecting an export from the United States, and, in so doing, violated Section 764.2(g) of the Regulations.

BXA alleged that Assi committed one violation of Section 764.2(c), one violation of Section 764.2(e), and one violation of Section 764.2(g), for a total of three violations of the Regulations.

Section 766.3(b)(1) of the Regulations provides that notice

of issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at his last known address; Section 766.3(c) provides that service is effected on the date of delivery or the date of attempted delivery if delivery is refused. In accordance with that section, on January 7, 1999, BXA sent to Assi, at his last known address, notice that it had issued a charging letter against him. BXA has established that delivery of the notice was made at that address on January 12, 1999 and that more than 30 days have passed since service was made.

To date, Assi has not answered or otherwise responded to the notice. Accordingly, because Assi has not answered the charging letter as required by and in the manner set forth in Section 766.6 of the Regulations, Assi is in default.

Pursuant to the default procedures set forth in Section 766.7 of the Regulations, I therefore find the facts to be as alleged in the charging letter, and hereby determine that Assi committed one violation of Section 764.2(c), one violation of Section 764.2(e), and one violation of Section 764.2(g), for a total of three violations of the Regulations.

Section 764.3 of the Regulations establishes the sanctions available for the violations charged in this proceeding. The applicable sanctions as set forth in the Regulations are a civil monetary penalty, suspension from practice before the Department of Commerce, and/or a denial of export privileges. See 15 C.F.R. § 764.3 (1998).

BXA urges that I recommend to the Under Secretary for Export Administration<sup>2</sup> that all of Assi's export privileges be denied for 20 years, for the following reasons: as alleged in the Indictment returned against Assi arising out of the facts that led to the issuance of the charging letter, the equipment that he was attempting to export was intended for Hizballah, which has been designated as a foreign terrorist organization by the Secretary of State pursuant to Section 219 of the Immigration and Nationality Act.

Second, Assi has not demonstrated that he has any intention of ever resolving this matter, either through the hearing process or through settlement, or that he would pay a civil penalty if one were to be imposed. Indeed, following his arrest under a complaint charging him with various offenses, including a violation of the Regulations, and his subsequent release under 18 U.S.C. § 3142, Assi failed to appear for a detention hearing. He is currently a fugitive. Under these circumstances, the denial of all of Assi's export privileges is the appropriate sanction.

Finally, given the fact that he is charged with multiple violations in connection with his efforts to export U.S.-origin items to Hizballah, which has been designated as a foreign terrorist organization, a 20-year denial is warranted. Such a denial period would clearly make the point to Assi and others

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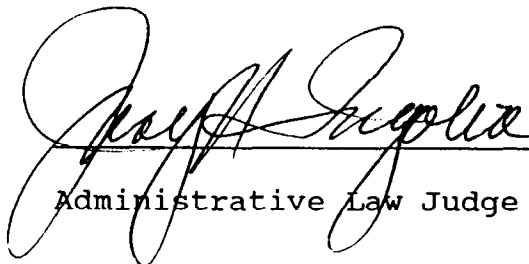
<sup>2</sup> Pursuant to Section 13(c)(1) of the Act and Section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge issues a recommended decision which is reviewed by the Under Secretary for Export Administration who issues the final decision for the agency.

that they cannot export with impunity U.S.-origin items to such entities. Given the foregoing, I concur with BXA, and recommend that the Under Secretary for Export Administration enter an Order against Assi, denying all of his export privileges for a period of 20 years.<sup>3</sup>

Accordingly, I am referring my recommended decision and order to the Under Secretary for review and final action for the agency, without further notice to the respondent, as provided in Section 766.7 of the Regulations.

Within 30 days after receipt of this recommended decision and order, the Under Secretary shall issue a written order affirming, modifying or vacating the recommended decision and order. See Section 766.22(c) of the Regulations.

Dated: 4/11/94

  
Administrative Law Judge .

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<sup>3</sup> Denial orders can be either "standard" or "non-standard." A standard order denying export privileges is appropriate in this case. The terms of a standard denial order are set forth in Supplement No. 1 to Part 764 of the Regulations.



UNITED STATES DEPARTMENT OF COMMERCE  
 UNDER SECRETARY FOR EXPORT ADMINISTRATION  
 WASHINGTON, D.C. 20230

In the Matter of:	)	Docket Number
	)	
FAWZI MUSTAPHA ASSI	)	99-BXA-01
7706 Middlepoint Street	)	
Dearborn, Michigan 48126,	)	
	)	
Respondent	)	
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DECISION AND ORDER

On January 7, 1999, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), issued a charging letter initiating an administrative proceeding against Fawzi Mustapha Assi (hereinafter "Assi"). The charging letter alleged that Assi committed three violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (hereinafter the "Act").<sup>1</sup>

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Lebanon a thermal imaging camera without the export license that he knew or had reason to know was required by Sections 742.4 and 742.6 of the Regulations. BXA alleged that, by attempting to violate the Act, the Regulations, or any order, license, or authorization issued thereunder, Assi violated Section 764.2(c) of the Regulations. BXA also alleged that, by selling, transferring, or forwarding commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act, the Regulations, or any order, license, or authorization issued thereunder occurred, was about to occur, or was intended to occur with respect to the transaction, Assi violated Section 764.2(e) of the Regulations.

Finally, BXA also alleged that, in connection with the attempted export described above, Assi failed to file with the U.S. Customs Service, at the time of the attempted export, the Shipper's Export Declaration (SED), an export control document as defined in Part 772 of the Regulations, required by Section 758.1(e) of the Regulations. BXA alleged that, by failing to file the SED, Assi concealed material facts from a United States agency for the purpose of or in connection with effecting an export from the United States, and, in so doing, violated Section 764.2(g) of the Regulations.

Thus, BXA alleged that Assi committed one violation of Section 764.2(c), one violation of Section 764.2(e), and one violation of Section 764.2(g), for a total of three violations of the Regulations.

BXA presented evidence that the charging letter was served on Assi in accordance with Section 766.3 of the Regulations but that he failed to answer it, as required by 766.7 of the Regulations, and is therefore in default. Thus, pursuant to Section 766.7 of the Regulations, BXA moved that the Administrative Law Judge (hereinafter the ALJ) find the facts to be as alleged in the charging letter and render a Recommended Decision and Order.

Following BXA's motion, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letter, and concluded that those facts constitute one violation of Section 764.2(c), one violation of Section 764.2(e), and one violation of Section 764.2(g), for a total of three violations of the Regulations by Assi, as BXA alleged. The ALJ also agreed with BXA's recommendation that the appropriate penalty to be imposed for that violation is a denial, for a period of 20 years, of all of Assi's export privileges. As provided by Section 766.22 of the Regulations, the Recommended Decision and Order has been referred to me for final action.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the Recommended Decision and Order of the ALJ.

ACCORDINGLY, IT IS THEREFORE ORDERED,

FIRST, that, for a period of 20 years from the date of this

Order, Fawzi Mustapha Assi, 7706 Middlepoint Street, Dearborn, Michigan 48126, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

# SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United

States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

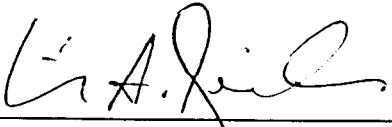
THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that this Order shall be served on Assi and on BXA, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: July 12, 1993

  
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William A. Reinsch  
Under Secretary for  
Export Administration